Advancing Women in Private Sector Leadership:
A G20/OECD Review of Progress

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Good morning. I would like to start by thanking the organizers for the opportunity to participate in this OECD webinar on *Advancing Women in Private Sector Leadership*. The policy initiatives and incentives to bring more women to take on leadership roles is an important and pressing corporate governance topic, and so it is indeed an honor to be able to join this discussion today.

The report that is being presented here is a very valuable piece of work in assessing the current state of play of women's representation in the private sector. The report assesses the range of OECD policy instruments and recommendations and how they have been implemented so far across OECD and G20 countries and, last but not least, of important follow-up steps for consideration to support further progress towards this goal. The OECD Corporate Governance Factbook is also an important tool to monitor the progress made by countries in promoting gender balance in management and leadership.

This webinar is taking place in a very special moment. It is already clear that the social and economic impact of the covid-19 pandemic has affected women particularly hard, for reasons that we are all well aware of – namely because they are generally more represented in sectors that have been worst hit, or because many of them are still the main careers of children and family members, while struggling to keep their jobs and productivity levels. The current context may well represent a set-back in the progress towards gender equality that has been achieved so far, so this is indeed the right time to strengthen this debate, to reflect on the changes and challenges that we have faced during the last year and to do things differently.

In Portugal, we have already taken what I consider to be the first and important steps in this area. Even more important given that, until very recently, Portugal was lagging behind most European countries in respect to gender diversity at board level and to the awareness of the very negative impacts of this gap. Having this starting point as background, the steps taken, and the developments already achieved, are in my view successful and may serve as an example for other jurisdictions with similar situations of how it is possible to progress in this area and achieve material results rapidly.

In fact, in 2017, Parliament approved a law imposing a balanced representation between men and women on the Board of Directors of listed companies and state-owned enterprises.

The envisaged balanced representation is based on the setting up of a minimum quota of members of the underrepresented gender, applicable to each board of directors and supervisory board.

For listed companies, the law establishes a gradual level of compliance by the companies' governing bodies, through a progressive quota. After 1 January 2018, the proportion of members of the underrepresented gender could not be less than 20%; this proportion increased to one third, after 1 January 2020.

The CMVM is responsible for supervising the compliance with this regime by listed companies and for the application of a gradual penalties framework foreseen in the law in case of non-compliance: firstly, the public declaration of non-compliance and provisional nature of the appointment of the board; in case the company does not achieve compliance within 3 months, a registered reprimand may be applied; and if the company fails to comply for a period over 360 days, a periodic penalty payment may be imposed.

At this point in time, our overall assessment of the formal compliance of quota requirements by listed companies is positive. Most of them have committed to complying with these legal requirements. In the residual cases of non-compliance, the harshest penalty applied so far was the declaration of non-compliance and provisional nature of the appointment, after which the non-compliant companies were able to fix the infringement, ensuring the required proportion of members of the underrepresented gender.

Since 2018, the CMVM detected 15 situations of non-compliance, many of which have already been fixed or are subject to a supervisory follow-up approach, aimed at compelling the firms to comply voluntarily.

But we know that there is still a long way to go.

If we take the EU ranking of countries in respect to the number of women in top management positions, Portugal is still in the second half of the ranking, though much better positioned than it was in 2017, when the quota requirements were set up.

More importantly, we cannot take the quota compliance results for granted or as a sign or consequence of solid, structural evolutions: these developments are of course relevant. Quota will help and are already helping to change the picture. But we need more. We need to ensure a friendly and favorable framework to increase the percentage of women in top management positions. We have to build on the evolution achieved so far and work on culture and mentality, on meaningful and effective policies and on a strong sense of purpose guiding the companies' global approach to equality and diversity.

In this regard, and in addition to the quota requirements, the law also requires listed companies to prepare and disclose an Annual Plan for Equality. This Annual Plan should work as an incentive for firms to reflect periodically about their gender practices and policies, going beyond a simple 'box ticking' approach to the compliance with quota requirements, enlarging the scope of diversity within the firm governance and progressively creating awareness of the positive impacts of gender diversity at board level.

There are also some rules in place, part of them resulting from EU legislation, regarding the disclosure of non-financial information and gender information, which will hopefully contribute to create the needed awareness and a strong diversity culture among companies and their managers, shareholders and stakeholders, going far beyond the mere duty to comply with quotas and leaving far behind the false tension between sustainability and profit.

Coming now to how the private sector has reacted to these quotas, and as I've mentioned, the overall evaluation of the compliance by listed companies is positive. At the same time, there are some relevant challenges when applying the Law:

- Some listed companies have reported difficulties in finding women with the (often specific) necessary qualifications to carry out duties as members of the board of directors, by virtue of the sectors in which they operate (namely in the banking sector);
- The fact that the regime is mandatory and doesn't confer discretionary powers to the CMVM reduces the regulator's ability to enforce the regime in a flexible manner, taking into consideration the specific circumstances and characteristics of the company in question;
- The 'one-size-fits-all' approach makes it more difficult for some of the firms to comply than to others; some proportionality should be considered;
- The sanctions foreseen in Law are applicable to the firm, but the proposals for members to be elected to the Board in the AGM are made by shareholders, which means that there is a disconnect between those responsible for the decision to comply with quota requirements and the entity which is subject to associated enforcement actions.

But even though the overall evaluation is positive – in the sense that boards of directors and supervisory boards are now more gender balanced –, there might not have been a significant cultural shift yet when it comes to the companies' perception of the need to promote gender equality. There are still (too) many elusive complaints about diversity rules allegedly involving costs and inefficiencies.

In other words, as of now, it's difficult to say that these changes are here to stay. We cannot safely assume that if this regime were no longer to be mandatory, these companies would maintain, by their own conviction and own will, a balanced representation. Ideally, the positive effects related to the application of this regime would be able to go beyond governing bodies and affect change to the bottom, along the company structure. A cultural change would be the most effective and sustainable way to promote gender equality within companies, but, for that to happen, further public policy might be needed.

In fact, notwithstanding the extreme importance of this law, which was indeed a significant first step, and which, in our view, would benefit from some adjustments (by introducing proportionality or progressive criteria, for example), I believe we can only aim at a truly robust outcome if other public policy measures are implemented, namely in the education front, equality of employment and payroll, access to information, parental leave, among others. Communication and education play a very significant role in this matter and, in many aspects, are far more reaching than the law itself.

And, last but not least, I believe that it is essential to send out a strong message stressing that there is evidence (notably, in this OECD report) proving that:

- more female directors bring more independent views into the boardroom and strengthen its monitoring function;
- gender-diverse boards tend to have a wider range of backgrounds, experiences, perspectives, and problem-solving skills, which may contribute to better monitoring of executive behavior; and
- (a growing body of research suggests that) having more women in leadership positions has the potential to contribute to better corporate governance and firm performance, which in turn can yield important economic benefits.

So, all in all, I believe that we should focus on a strong message to convey that the promotion of gender equality is indeed capable of enhancing the maximization of stakeholder value and is crucial for the firms' financial viability in the long run. That is why we are also including an explicit message of gender balance and neutrality in the review of two pieces of legislation that we are currently working on: one on investment firms and the other on asset management.

I would like to conclude by quoting a sentence that I read in the report, which I believe is strikingly important: *Tackling gender inequalities in leadership can help tackle gender inequalities elsewhere*.